



General Assembly

Substitute Bill No. 703

January Session, 2007

* _____SB00703JUD_____041307_____*

AN ACT CONCERNING FIRE SAFE CIGARETTES AND APPEALS OF DECISIONS BY LOCAL TREE WARDENS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2008*) As used in section 12-302 of
2 the general statutes, as amended by this act, sections 1 to 4, inclusive,
3 and sections 6 to 10, inclusive, of this act, unless the context clearly
4 indicates otherwise:

5 (1) "Cigarette" means any product that contains nicotine, is intended
6 to be burned or heated under ordinary conditions of use, and consists
7 of or contains (A) any roll of tobacco wrapped in paper or in any
8 substance not containing tobacco; or (B) tobacco, in any form, that is
9 functional in the product, which, because of its appearance, the type of
10 tobacco used in the filler, or its packaging and labeling, is likely to be
11 offered to, or purchased by, consumers as a cigarette; and (C) any roll
12 of tobacco wrapped in any substance containing tobacco which,
13 because of its appearance, the type of tobacco used in the filler, or its
14 packaging and labeling, is likely to be offered to, or purchased by,
15 consumers as a cigarette described in subparagraph (A) of this
16 subdivision. "Cigarette" includes roll-your-own tobacco, and 0.09
17 ounces of roll-your-own tobacco shall constitute one individual
18 "cigarette";

19 (2) "Manufacturer" means (A) any entity that manufactures or

20 otherwise produces cigarettes or causes cigarettes to be manufactured
21 or produced anywhere that such manufacturer intends to be sold in
22 this state, including cigarettes intended to be sold in the United States
23 through an importer; (B) the first purchaser anywhere that intends to
24 resell in the United States cigarettes manufactured anywhere that the
25 original manufacturer or maker does not intend to be sold in the
26 United States; or (C) any entity that becomes a successor of an entity
27 described in subparagraph (A) or (B) of this subdivision;

28 (3) "Quality control and quality assurance program" means the
29 laboratory procedures implemented to ensure that operator bias,
30 systematic and nonsystematic methodological errors and equipment-
31 related problems do not affect the results of the testing;

32 (4) "Repeatability" means the range of values within which the
33 repeat results of cigarette test trials from a single laboratory will fall
34 ninety-five per cent of the time;

35 (5) "Retail dealer" means any person, other than a manufacturer or
36 wholesale dealer, engaged in selling cigarettes or tobacco products;

37 (6) "Roll-your-own tobacco" means any tobacco which, because of its
38 appearance, type, packaging or labeling is suitable for use and likely to
39 be offered to, or purchased by, consumers as tobacco for making
40 cigarettes;

41 (7) "Sale" means any transfer of title or possession, or both, exchange
42 or barter, conditional or otherwise, in any manner and by any means,
43 and includes, but is not limited to, the giving of cigarettes as samples,
44 prizes or gifts, and the exchanging of cigarettes for any consideration;

45 (8) "Sell" means to sell, or to offer or agree to do the same; and

46 (9) "Wholesale dealer" means any person, other than a
47 manufacturer, who sells cigarettes or tobacco products to retail dealers
48 or other persons for purposes of resale, and any person who owns,
49 operates or maintains one or more cigarette or tobacco product

50 vending machines in, at or upon premises owned or occupied by any
51 other person.

52 Sec. 2. (NEW) (*Effective July 1, 2008*) (a) Except as provided in
53 subsection (f) of this section, no cigarettes may be sold or offered for
54 sale in this state or offered for sale or sold to persons located in this
55 state unless the cigarettes have been tested in accordance with the test
56 method and meet the performance standard specified in this section, a
57 written certification has been filed by the manufacturer with the Office
58 of the State Fire Marshal in accordance with section 3 of this act, and
59 the cigarettes have been marked in accordance with section 4 of this
60 act. All testing by the manufacturer or testing performed or sponsored
61 by the Office of the State Fire Marshal to determine a cigarette's
62 compliance with the performance standard required shall be
63 conducted in accordance with the following requirements:

64 (1) Testing of cigarettes shall be conducted in accordance with the
65 American Society of Testing and Materials or "ASTM" standard E2187-
66 04, "Standard Test Method for Measuring the Ignition Strength of
67 Cigarettes" or a subsequent ASTM Standard Test Method for
68 Measuring the Ignition Strength of Cigarettes upon a finding by the
69 State Fire Marshal that such subsequent method does not result in a
70 change in the percentage of full-length burns exhibited by any tested
71 cigarette when compared to the percentage of full-length burns the
72 same cigarette would exhibit when tested in accordance with ASTM
73 standard E2187-04 and the performance standard in subdivision (3) of
74 this subsection;

75 (2) Testing shall be conducted on ten layers of filter paper;

76 (3) Not more than twenty-five per cent of the cigarettes tested in a
77 test trial in accordance with this section shall exhibit full-length burns.
78 Forty replicate tests shall comprise a complete test trial for each
79 cigarette tested;

80 (4) The performance standard required by this section shall only be
81 applied to a complete test trial;

82 (5) Written certifications shall be based upon testing conducted by a
83 laboratory that has been accredited pursuant to standard ISO or IEC
84 17025 of the International Organization for Standardization or other
85 comparable accreditation standard required by the Office of the State
86 Fire Marshal;

87 (6) Laboratories conducting testing in accordance with this section
88 shall implement a quality control and quality assurance program that
89 includes a procedure that will determine the repeatability of the testing
90 results. The repeatability value shall be no greater than 0.19. Such
91 program ensures that the testing repeatability remains within the
92 required repeatability value set forth in this subdivision for all test
93 trials used to certify cigarettes in accordance with this section, sections
94 3 and 4 of this act, sections 6 to 10, inclusive, of this act, and section 12-
95 302 of the general statutes, as amended by this act; and

96 (7) No additional testing is required if cigarettes are tested
97 consistent with this section for any other purpose.

98 (b) Each cigarette that uses lowered permeability bands in the
99 cigarette paper to achieve compliance with the performance standard
100 set forth in this section shall have not less than two nominally identical
101 bands on the paper surrounding the tobacco column. At least one
102 complete band shall be located not less than fifteen millimeters from
103 the lighting end of the cigarette. For cigarettes on which the bands are
104 positioned by design, there shall be not less than two bands fully
105 located at least fifteen millimeters from the lighting end and ten
106 millimeters from the filter end of the tobacco column, or ten
107 millimeters from the labeled end of the tobacco column for nonfiltered
108 cigarettes.

109 (c) A manufacturer of a cigarette that the State Fire Marshal
110 determines cannot be tested in accordance with the test method
111 prescribed in subdivision (1) of subsection (a) of this section may
112 propose an alternate test method and performance standard for the
113 cigarette to the State Fire Marshal. Upon approval and a determination

114 by the State Fire Marshal that the performance standard proposed by
115 the manufacturer is equivalent to the performance standard prescribed
116 in subdivision (3) of subsection (a) of this section, the manufacturer
117 may employ such test method and performance standard to certify
118 such cigarette pursuant to section 3 of this act. If the State Fire Marshal
119 determines that another state has enacted reduced cigarette ignition
120 propensity standards that include a test method and performance
121 standard that are the same as those contained in section 12-302 of the
122 general statutes, as amended by this act, sections 1 to 4, inclusive, and
123 sections 6 to 10, inclusive, of this act, and the State Fire Marshal finds
124 that the officials responsible for implementing those requirements
125 have approved the proposed alternative test method and performance
126 standard for a particular cigarette proposed by a manufacturer as
127 meeting the reduced cigarette ignition propensity standards of that
128 state's law or regulations under a legal provision comparable to this
129 section, then the State Fire Marshal shall authorize that manufacturer
130 to employ the alternative test method and performance standard to
131 certify that cigarette for sale in this state, unless the State Fire Marshal
132 demonstrates a reasonable basis why the alternative test should not be
133 accepted under said sections. All other applicable requirements of this
134 section shall apply to the manufacturer.

135 (d) Each manufacturer shall maintain copies of the reports of all
136 tests conducted on all cigarettes offered for sale for a period of three
137 years, and shall provide copies of the reports to the State Fire Marshal
138 and the Attorney General upon written request. Any manufacturer
139 that fails to provide such copies not later than sixty days after
140 receiving a written request shall be subject to a civil penalty not to
141 exceed ten thousand dollars for each day after the sixtieth day that the
142 manufacturer does not make such copies available.

143 (e) The State Fire Marshal shall review the effectiveness of this
144 section and shall submit a report to the joint standing committee of the
145 General Assembly having cognizance of matters relating to public
146 safety, in accordance with section 11-4a of the general statutes,
147 containing the State Fire Marshal's findings and, if appropriate,

148 recommendations for legislation to improve the effectiveness of this
149 section. Such report shall be submitted not later than June 30, 2011, and
150 every three years thereafter.

151 (f) Nothing in this section shall be construed to prohibit: (1)
152 Wholesale dealers or retail dealers from selling their existing inventory
153 of cigarettes on or after July 1, 2008, if the wholesale dealer or retail
154 dealer can establish that Connecticut cigarette tax stamps were affixed
155 to the cigarettes prior to the effective date of this section and the
156 wholesale dealer or retail dealer can establish that the inventory was
157 purchased prior to July 1, 2008, in comparable quantity to the
158 inventory purchased during the same period of the prior year; or (2)
159 the sale of cigarettes solely for the purpose of consumer testing. For the
160 purposes of this subsection, "consumer testing" means an assessment
161 of cigarettes that is conducted by or under the control of a
162 manufacturer for the purpose of evaluating consumer acceptance of
163 such cigarettes, utilizing only the quantity of cigarettes that is
164 reasonably necessary for such assessment, and in a controlled setting
165 where the cigarettes are either consumed on-site or returned to the
166 testing administrators at the conclusion of the testing.

167 Sec. 3. (NEW) (*Effective July 1, 2008*) (a) Each manufacturer shall
168 submit to the Office of the State Fire Marshal a written certification
169 every three years attesting that: (1) Each cigarette listed in the
170 certification has been tested in accordance with section 2 of this act;
171 and (2) each cigarette listed in the certification meets the performance
172 standard set forth in section 2 of this act.

173 (b) The certification shall list the following information for each
174 cigarette listed: (1) Brand or trade name on the package; (2) style, such
175 as light or ultra light; (3) length in millimeters; (4) circumference in
176 millimeters; (5) flavor, such as menthol or chocolate, if applicable; (6)
177 filter or nonfilter; (7) package description, such as a soft package or
178 box; (8) marking pursuant to section 4 of this act; (9) the name, address
179 and telephone number of the laboratory, if different than the
180 manufacturer, that conducted the test; and (10) the date that the testing

181 occurred.

182 (c) Each certification may be provided to the Attorney General for
183 the purposes of ensuring compliance with this section.

184 (d) For each cigarette listed in a certification, a manufacturer shall
185 pay to the State Fire Marshal a fee of two hundred fifty dollars. The
186 State Fire Marshal may annually adjust such fee, in regulations
187 adopted in accordance with chapter 54 of the general statutes, to
188 ensure that such fee defrays the actual costs of the processing, testing,
189 enforcement and oversight activities of the State Fire Marshal.

190 (e) If a manufacturer has certified a cigarette pursuant to this
191 section, and thereafter makes any change to such cigarette that is likely
192 to alter its compliance with the reduced cigarette ignition propensity
193 standards required by section 2 of this act, that cigarette shall not be
194 sold or offered for sale in this state until the manufacturer retests the
195 cigarette, in accordance with the testing and recording requirements
196 set forth in section 2 of this act, and finds that the cigarette meets the
197 performance standards set forth in section 2 of this act.

198 Sec. 4. (NEW) (*Effective July 1, 2008*) (a) Prior to the certification of a
199 cigarette, a manufacturer shall submit its proposed marking to the
200 State Fire Marshal for approval. The marking shall be in eight-point
201 type or larger and consist of: (1) Modification of the product UPC Code
202 to include a visible mark printed at or around the area of the UPC
203 Code, which mark may consist of alphanumeric or symbolic characters
204 permanently stamped, engraved, embossed or printed in conjunction
205 with the UPC; (2) any visible combination of alphanumeric or symbolic
206 characters permanently stamped, engraved or embossed upon the
207 cigarette package or cellophane wrap; (3) printed, stamped, engraved
208 or embossed text that indicates that the cigarettes meet the standards
209 of sections 1 to 3, inclusive, of this act; or (4) the letters "FSC", which
210 signifies Fire Standards Compliant, appearing in eight-point type or
211 larger and permanently printed, stamped, engraved or embossed on
212 the package at or near the UPC code.

213 (b) The State Fire Marshal shall approve or disapprove the proposed
214 marking, except that proposed markings shall be deemed approved if
215 the State Fire Marshal fails to act not later than ten business days after
216 receiving a request for approval. The State Fire Marshal shall approve:

217 (1) The letters "FSC", which signifies Fire Standards Compliant,
218 appearing in eight-point type or larger and permanently printed,
219 stamped, engraved or embossed on the package at or near the UPC
220 code; and

221 (2) any marking in use and approved for sale in New York pursuant
222 to the New York Fire Safety Standards for Cigarettes.

223 (c) A manufacturer shall use only one marking, and shall apply the
224 marking uniformly for all packages, including, but not limited to,
225 packages, cartons, and cases, and brands marketed by that
226 manufacturer. No manufacturer shall modify its approved marking
227 unless the modification has been approved by the State Fire Marshal in
228 accordance with this section.

229 (d) Manufacturers shall provide a copy of the certifications to all
230 wholesale dealers and agents to which they sell cigarettes, and shall
231 also provide sufficient copies of an illustration of the package marking
232 utilized by the manufacturer pursuant to this section for each retail
233 dealer to which the wholesale dealers or agents sell cigarettes.
234 Wholesale dealers and agents shall provide a copy of such package
235 markings received from manufacturers to all retail dealers to which
236 they sell cigarettes. Wholesale dealers, agents and retail dealers shall
237 permit the State Fire Marshal, the Commissioner of Revenue Services,
238 the Attorney General and their employees to inspect markings of
239 cigarette packaging marked in accordance with this section.

240 (e) Nothing in section 12-302 of the general statutes, as amended by
241 this act, sections 1 to 4, inclusive, and sections 6 to 10, inclusive, of this
242 act, shall be construed to prohibit any person or entity from
243 manufacturing or selling cigarettes that do not meet the requirements
244 of said sections if the cigarettes are or shall be stamped for sale in

245 another state or are packaged for sale outside the United States and
246 that person or entity has taken reasonable steps to ensure that such
247 cigarettes will not be sold or offered for sale to persons located in this
248 state.

249 Sec. 5. Section 12-302 of the general statutes is repealed and the
250 following is substituted in lieu thereof (*Effective July 1, 2008*):

251 (a) Except as otherwise provided in subsection (b) of this section,
252 each distributor shall affix, or cause to be affixed, at the location for
253 which such distributor's license is issued, in such manner as the
254 commissioner may specify in regulations issued pursuant to this
255 chapter, to each individual package of cigarettes sold or distributed by
256 the distributor, stamps of the proper denomination, as required by
257 section 12-296. Such stamps may be affixed by a distributor at any time
258 before the cigarettes are transferred out of the distributor's possession.

259 (b) No distributor shall affix, or cause to be affixed, to a package of
260 cigarettes sold or distributed by such distributor, stamps, if the
261 package (1) is not labeled in conformity with the requirements of the
262 federal Cigarette Labeling and Advertising Act, 79 Stat. 282, 15 USC
263 1331 et seq., or any other federal requirement for the placement of
264 labels, warnings and other information, applicable to packages of
265 cigarettes that are intended to be sold within the United States; (2)
266 bears any label or notice prescribed by the United States Department
267 of Treasury to identify cigarettes intended for export and exempt from
268 tax by the United States pursuant to 26 USC 5704(b), including "For
269 export only", "U.S. Tax-exempt", "For use outside U.S." or similar
270 wording indicating that the manufacturer did not intend that the
271 product be sold within the United States, including any notice or label
272 described in 27 CFR 290.185; (3) has been imported into the United
273 States after January 1, 2000, in violation of 26 USC 5754 or regulations
274 adopted thereunder; (4) in any way violates federal trademark or
275 copyright law or if all federal taxes due have not been paid on the
276 cigarettes; (5) has been modified or altered by a person other than the
277 manufacturer or person specifically authorized by the manufacturer,

278 including modification or alteration by the placement of a sticker or
279 label to cover information, including the wording, labels or warnings
280 described in subdivision (1) or (2) of this subsection, on the package;
281 [or] (6) has been manufactured or sold by a tobacco product
282 manufacturer that is in violation of subdivision (2) of subsection (a) of
283 section 4-28i or section 4-28j and the distributor has been notified by
284 the commissioner of such violation; or (7) has not been marked in
285 accordance with section 4 of this act. Notwithstanding the provisions
286 of section 12-15, the commissioner may disclose to the public the name
287 of any person who has violated the provisions of section 4-28i or 4-28j.

288 Sec. 6. (NEW) (*Effective July 1, 2008*) (a) A manufacturer, wholesale
289 dealer, agent or any other person or entity who knowingly sells or
290 offers to sell cigarettes, other than through retail sale, in violation of
291 section 2 of this act, shall be subject to a civil penalty not to exceed one
292 hundred dollars for each package of such cigarettes sold or offered for
293 sale, except that in no case shall the penalty against any such person or
294 entity exceed one hundred thousand dollars during any thirty-day
295 period.

296 (b) A retail dealer who knowingly sells or offers to sell cigarettes in
297 violation of section 2 of this act shall be subject to a civil penalty not to
298 exceed one hundred dollars for each package of such cigarettes sold or
299 offered for sale, except that in no case shall the penalty against any
300 retail dealer exceed twenty-five thousand dollars for sales or offers to
301 sell during any thirty-day period.

302 (c) In addition to any penalty prescribed by law, any corporation,
303 partnership, sole proprietor, limited partnership or association
304 engaged in the manufacture of cigarettes that knowingly makes a false
305 certification pursuant to section 2 of this act shall be subject to a civil
306 penalty of not less than seventy-five thousand dollars or more than
307 two hundred fifty thousand dollars for each such false certification.

308 (d) Any person violating any provision of section 3 or 4 of this act
309 shall be subject to a civil penalty for a first offense not to exceed one

310 thousand dollars, and for a subsequent offense subject to a civil
311 penalty not to exceed five thousand dollars for each such violation.

312 (e) In addition to any other remedy provided by law, the Attorney
313 General may file an action in the superior court for the judicial district
314 of Hartford for a violation of any provision of sections 1 to 4, inclusive,
315 of this act, or section 12-302 of the general statutes, as amended by this
316 act, including petitioning for injunctive relief or to recover any costs or
317 damages suffered by the state due to a violation, including
318 enforcement costs relating to the specific violation and attorney's fees.
319 Each violation constitutes a separate and distinct civil offense for
320 which the Attorney General may obtain relief.

321 (f) Whenever any member of law enforcement personnel or duly
322 authorized local or state fire marshal discovers any cigarettes that have
323 not been tested in accordance with section 2 of this act or marked in
324 the manner required by section 4 of this act, such member or fire
325 marshal may seize and take possession of such cigarettes. Such
326 cigarettes shall be turned over to the Commissioner of Revenue
327 Services and shall be forfeited to the state. Cigarettes seized pursuant
328 to this section shall be destroyed, except that prior to the destruction of
329 any cigarette seized pursuant to this section, the true holder of the
330 trademark rights in the cigarette brand shall be permitted to inspect
331 the cigarette.

332 Sec. 7. (NEW) (*Effective July 1, 2008*) The State Fire Marshal, in
333 consultation with the Commissioner of Revenue Services, shall adopt
334 regulations, in accordance with chapter 54 of the general statutes, to
335 implement the provisions of section 12-302 of the general statutes, as
336 amended by this act, sections 1 to 4, inclusive, and sections 6 to 10,
337 inclusive, of this act, in accordance with the New York Fire Safety
338 Standards for Cigarettes, consistent with the requirements of said
339 sections.

340 Sec. 8. (NEW) (*Effective July 1, 2008*) (a) The Commissioner of
341 Revenue Services in the regular course of conducting inspections of

342 wholesale dealers, agents and retail dealers, as authorized under
343 chapter 214a of the general statutes, may inspect cigarettes to
344 determine if the cigarettes are marked as required by section 4 of this
345 act. If the cigarettes are not marked as required, the Commissioner of
346 Revenue Services shall notify the State Fire Marshal.

347 (b) The Attorney General, the Commissioner of Revenue Services
348 and the State Fire Marshal, their duly authorized representatives and
349 other law enforcement personnel may examine the books, papers,
350 invoices and other records of any person in possession, control or
351 occupancy of any premises where cigarettes are placed, stored, sold or
352 offered for sale, as well as the stock of cigarettes on the premises. Each
353 person in the possession, control or occupancy of any premises where
354 cigarettes are placed, sold or offered for sale, shall be required to give
355 the Attorney General, the Commissioner of Revenue Services and the
356 State Fire Marshal, their duly authorized representatives and other law
357 enforcement personnel the means, facilities and opportunity for the
358 examinations authorized by this section.

359 Sec. 9. (NEW) (*Effective July 1, 2008*) There is established, within the
360 General Fund, a separate, nonlapsing account to be known as the fire
361 safety standard and firefighter protection act enforcement account. The
362 account shall contain all certification fees submitted by manufacturers
363 in accordance with section 2 of this act, any penalties collected
364 pursuant to section 6 of this act and any other moneys required by law
365 to be deposited in the account. The proceeds of the account shall be
366 used by the State Fire Marshal solely to fund the processing, testing,
367 enforcement and oversight activities specified in section 12-302 of the
368 general statutes, as amended by this act, sections 1 to 4, inclusive, and
369 sections 6 to 8, inclusive, of this act.

370 Sec. 10. (NEW) (*Effective July 1, 2008*) Notwithstanding any other
371 provision of law, no town, city, borough or other unit of local
372 government may enact or enforce any ordinance or other local law or
373 regulation conflicting with, or preempted by, any provision of section
374 12-302 of the general statutes, as amended by this act, sections 1 to 4,

375 inclusive, or sections 6 to 9, inclusive, of this act, or conflicting with, or
376 preempted by, any policy of this state expressed by said sections,
377 whether that policy be expressed by inclusion of a provision in said
378 sections or by exclusion of that subject from said sections.

379 Sec. 11. Section 23-59 of the general statutes is repealed and the
380 following is substituted in lieu thereof (*Effective October 1, 2007*):

381 The town or borough tree warden shall have the care and control of
382 all trees and shrubs in whole or in part within the limits of any public
383 road or grounds and within the limits of his town or borough, except
384 those along state highways under the control of the Commissioner of
385 Transportation and except those in public parks or grounds which are
386 under the jurisdiction of park commissioners, and of these the tree
387 warden shall take the care and control if so requested in writing by the
388 park commissioners. Such care and control shall extend to such limbs,
389 roots or parts of trees and shrubs as extend or overhang the limits of
390 any such public road or grounds. The tree warden shall expend all
391 funds appropriated for the setting out, care and maintenance of such
392 trees and shrubs. The tree warden shall enforce all provisions of law
393 for the preservation of such trees and shrubs and of roadside beauty.
394 The tree warden shall remove or cause to be removed all illegally
395 erected signs or advertisements, placed upon poles, trees or other
396 objects within any public road or place under the tree warden's
397 jurisdiction. The tree warden may prescribe such regulations for the
398 care and preservation of such trees and shrubs as the tree warden
399 deems expedient and may provide therein for a reasonable fine for the
400 violation of such regulations; and such regulations, when approved by
401 the selectmen or borough warden and posted on a public signpost in
402 the town or borough, if any, or at some other exterior place near the
403 office of the town or borough clerk, shall have the force and effect of
404 town or borough ordinances. Whenever, in the opinion of the tree
405 warden, the public safety demands the removal or pruning of any tree
406 or shrub under the tree warden's control, the tree warden may cause
407 such tree or shrub to be removed or pruned at the expense of the town
408 or borough and the selectmen or borough warden shall order paid to

409 the person performing such work such reasonable compensation
410 therefor as may be determined and approved in writing by the tree
411 warden. Unless the condition of such tree or shrub constitutes an
412 immediate public hazard, the tree warden shall, at least ten days
413 before such removal or pruning, post thereon a suitable notice stating
414 the tree warden's intention to remove or prune such tree or shrub. If
415 any person, firm or corporation objects to such removal or pruning,
416 such person, firm or corporation may appeal to the tree warden in
417 writing, who shall hold a public hearing at some suitable time and
418 place after giving reasonable notice of such hearing to all persons
419 known to be interested therein and posting a notice thereof on such
420 tree or shrub. Within three days after such hearing, the tree warden
421 shall render a decision granting or denying the application, and the
422 party aggrieved by such decision may, within ten days, appeal
423 therefrom to the [superior court for the judicial district within which
424 such town or borough is located] zoning board of appeals of the town
425 or borough. The tree warden may, with the approval of the selectmen
426 or borough warden, remove any trees or other plants within the limits
427 of public highways or grounds under the tree warden's jurisdiction
428 that are particularly obnoxious as hosts of insect or fungus pests.

429 Sec. 12. Section 8-6 of the general statutes is repealed and the
430 following is substituted in lieu thereof (*Effective October 1, 2007*):

431 (a) The zoning board of appeals shall have the following powers
432 and duties: (1) To hear and decide appeals where it is alleged that
433 there is an error in any order, requirement or decision made by the
434 official charged with the enforcement of this chapter or any bylaw,
435 ordinance or regulation adopted under the provisions of this chapter;
436 (2) to hear and decide all matters including special exceptions and
437 special exemptions under section 8-2g upon which it is required to
438 pass by the specific terms of the zoning bylaw, ordinance or
439 regulation; [and] (3) to determine and vary the application of the
440 zoning bylaws, ordinances or regulations in harmony with their
441 general purpose and intent and with due consideration for conserving
442 the public health, safety, convenience, welfare and property values

443 solely with respect to a parcel of land where, owing to conditions
444 especially affecting such parcel but not affecting generally the district
445 in which it is situated, a literal enforcement of such bylaws, ordinances
446 or regulations would result in exceptional difficulty or unusual
447 hardship so that substantial justice will be done and the public safety
448 and welfare secured, provided that the zoning regulations may specify
449 the extent to which uses shall not be permitted by variance in districts
450 in which such uses are not otherwise allowed. No such board shall be
451 required to hear any application for the same variance or substantially
452 the same variance for a period of six months after a decision by the
453 board or by a court on an earlier such application; and (4) to hear and
454 decide appeals of a decision by a tree warden under section 23-59, as
455 amended by this act, concerning removal or pruning of any tree or
456 shrub.

457 (b) Any variance granted by a zoning board of appeals shall run
458 with the land and shall not be personal in nature to the person who
459 applied for and received the variance. A variance shall not be
460 extinguished solely because of the transfer of title to the property or
461 the invalidity of any condition attached to the variance that would
462 affect the transfer of the property from the person who initially applied
463 for and received the variance.

464 Sec. 13. Section 8-7 of the general statutes is repealed and the
465 following is substituted in lieu thereof (*Effective October 1, 2007*):

466 The concurring vote of four members of the zoning board of appeals
467 shall be necessary to reverse any order, requirement or decision of the
468 official charged with the enforcement of the zoning regulations or to
469 decide in favor of the applicant any matter upon which it is required to
470 pass under any bylaw, ordinance, rule or regulation or to vary the
471 application of the zoning bylaw, ordinance, rule or regulation or to
472 reverse any decision by a tree warden under section 23-59, as amended
473 by this act, concerning removal or pruning of any tree or shrub. An
474 appeal may be taken to the zoning board of appeals by any person
475 aggrieved or by any officer, department, board or bureau of any

476 municipality aggrieved and shall be taken within such time as is
477 prescribed by a rule adopted by said board, or, if no such rule is
478 adopted by the board, within thirty days, by filing with the zoning
479 commission or the officer from whom the appeal has been taken and
480 with said board a notice of appeal specifying the grounds thereof. Such
481 appeal period shall commence for an aggrieved person at the earliest
482 of the following: (1) Upon receipt of the order, requirement or decision
483 from which such person may appeal, (2) upon the publication of a
484 notice in accordance with subsection (f) of section 8-3, or (3) upon
485 actual or constructive notice of such order, requirement or decision.
486 The officer from whom the appeal has been taken shall forthwith
487 transmit to said board all the papers constituting the record upon
488 which the action appealed from was taken. An appeal shall not stay
489 any such order, requirement or decision which prohibits further
490 construction or expansion of a use in violation of such zoning
491 regulations except to such extent that the board grants a stay thereof.
492 An appeal from any other order, requirement or decision shall stay all
493 proceedings in the action appealed from unless the zoning commission
494 or the officer from whom the appeal has been taken certifies to the
495 zoning board of appeals after the notice of appeal has been filed that
496 by reason of facts stated in the certificate a stay would cause imminent
497 peril to life or property, in which case proceedings shall not be stayed,
498 except by a restraining order which may be granted by a court of
499 record on application, on notice to the zoning commission or the
500 officer from whom the appeal has been taken and on due cause shown.
501 The board shall hold a public hearing on such appeal in accordance
502 with the provisions of section 8-7d. Such board may reverse or affirm
503 wholly or partly or may modify any order, requirement or decision
504 appealed from and shall make such order, requirement or decision as
505 in its opinion should be made in the premises and shall have all the
506 powers of the officer from whom the appeal has been taken but only in
507 accordance with the provisions of this section. Whenever a zoning
508 board of appeals grants or denies any special exception or variance in
509 the zoning regulations applicable to any property or sustains or
510 reverses wholly or partly any order, requirement or decision appealed

511 from, it shall state upon its records the reason for its decision and the
 512 zoning bylaw, ordinance or regulation which is varied in its
 513 application or to which an exception is granted and, when a variance is
 514 granted, describe specifically the exceptional difficulty or unusual
 515 hardship on which its decision is based. Notice of the decision of the
 516 board shall be published in a newspaper having a substantial
 517 circulation in the municipality and addressed by certified mail to any
 518 person who appeals to the board, by its secretary or clerk, under his
 519 signature in any written, printed, typewritten or stamped form, within
 520 fifteen days after such decision has been rendered. In any case in
 521 which such notice is not published within such fifteen-day period, the
 522 person who requested or applied for such special exception or variance
 523 or took such appeal may provide for the publication of such notice
 524 within ten days thereafter. Such exception or variance shall become
 525 effective upon the filing of a copy thereof (A) in the office of the town,
 526 city or borough clerk, as the case may be, but, in the case of a district,
 527 in the offices of both the district clerk and the town clerk of the town in
 528 which such district is located, and (B) in the land records of the town in
 529 which the affected premises are located, in accordance with the
 530 provisions of section 8-3d.

This act shall take effect as follows and shall amend the following sections:

| | | |
|-----------|------------------------|-------------|
| Section 1 | <i>July 1, 2008</i> | New section |
| Sec. 2 | <i>July 1, 2008</i> | New section |
| Sec. 3 | <i>July 1, 2008</i> | New section |
| Sec. 4 | <i>July 1, 2008</i> | New section |
| Sec. 5 | <i>July 1, 2008</i> | 12-302 |
| Sec. 6 | <i>July 1, 2008</i> | New section |
| Sec. 7 | <i>July 1, 2008</i> | New section |
| Sec. 8 | <i>July 1, 2008</i> | New section |
| Sec. 9 | <i>July 1, 2008</i> | New section |
| Sec. 10 | <i>July 1, 2008</i> | New section |
| Sec. 11 | <i>October 1, 2007</i> | 23-59 |
| Sec. 12 | <i>October 1, 2007</i> | 8-6 |
| Sec. 13 | <i>October 1, 2007</i> | 8-7 |

| | | |
|------------|-----------------------------------|-----|
| PS | <i>Joint Favorable Subst. C/R</i> | JUD |
| JUD | <i>Joint Favorable Subst.</i> | |